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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,227	03/25/2002	Albert Louis Victor Jozef Claessens	236551N2PCT/US	9957

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10/06/2003

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EXAMINER

NGO, LIEN M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 10/06/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/980,227

Applicant(s)

CLAESSENS, ALBERT LOUIS
VICTOR JOZEF

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 11 July 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. The drawing does not show the cross section symbolic of thermoplastic elastomer material as set forth in claims 32, 33, 47, 50, 51, 57 and 60. Therefore, the thermoplastic elastomeric material must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the proper of the cross section symbolic of thermoplastic elastomer material. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 32-46, and 50-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 32, 33, 50, 51 are indefinite because in the claims, the phrase "serving as" or "as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 32, 36, 37, 40 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sudo et al. (5,845,797) in view of Thijs et al. (5,163,919). Sudo et al. disclose, in col.5, lines 52-56, a stopper of a thermoplastic elastomer material (rubber) can be produced by injection molding and therefore the stopper has an injection point with a smooth surfaced mark. Sudo et al.

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do not disclose the stopper comprising at least 30% of a mineral filler. Thijs et al. teach, in col.4, a stopper of a thermoplastic elastomer material (rubber) comprising more than 30% of mineral filler (40-45% silicate filler). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Sudo et al. stopper with a mineral filler, as taught by Thijs et al., in order to provide a suitable hardness to the stopper.

7. Claims 32-40, 44, 45 and 50-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naritomi et al. (6,607,685) in view Thijs et al.. Naritomi et al. disclose, in figs. 1 and 2, and in col.1, lines 55-61, a molding 11 of a thermoplastic elastomer material (rubber) being produced by injection molding and therefore the stopper has an injection point with a smooth surfaced mark. The mold is injected over by a second part 10 of the molding. Naritomi et al. do not disclose the molding comprising at least 30% of a mineral filler. Thijs et al. teach, in col.4, a stopper of a thermoplastic elastomer material (rubber) comprising more than 30% of mineral filler (40-45% silicate filler). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Naritomi et al. molding with a mineral filler, as taught by Thijs et al., in order to provide a suitable hardness to the stopper.

In regard to claims 38 and 56, it would have been an obvious matter of design choice to make the stopper of Sudo et al. in view of Thijs et al with the injection point offset outwards, since applicant has not disclosed that the stopper with the injection point offset outward solves

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any stated problem or is for any particular purposed and it appears that the invention would perform equally well with the stopper without being offset outwards.

8. Claims 32, 41, 42, 46, 57-59 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matukura et al. (4,441,621) in view of Sudo et al. or Naritomi et al. and further in view of Thijs .

Matukura et al. disclose, in fig. 3, a rubber stopper comprising a stopper collar having a greater wall thickness than a stopper top in its central region.

Matukura et al do not disclose the stopper comprising at least 30% of mineral filler and the stopper being produced by injection molding.

Sudo et al. disclose, in col.5, lines 52-56, a stopper of a thermoplastic elastomer material (rubber) can be produced by injection molding, and Thijs et al. disclose a stopper comprising at least 30% of a mineral filler.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the Matukura et al. stopper having a mineral filler as claimed, as taught by Thijs et al., and the stopper being produced by injection molding, as taught by Sudo et al., in order to provide a smooth surface marked stopper with a suitable hardness.

In regard to claim 63, Naritomi et al. teach the hot runner injection 22 is performed in a region of the stopper top.

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9. Claims 32, 43, 47-49 and 60-62 and rejected under 35 U.S.C. 103(a) as being unpatentable over Thibault et al. (5,607,400) in view Deussen (4,134,511) and Thijs et al. Thibault et al. disclose a elastomeric protective cap comprising limitations substantially as claimed, except Thibault et al. do not disclose the cap comprising at least 30% of mineral filler and the cap being produced by injection molding.. Thijs et al. teach, in col. 4, lines 13-15, non-elastomeric substances may be added to elastomer in order to tailor the properties of the material to specific needs such as 40-45% silicate filler (see col. 4, lines 42). Deussen teaches, in the abstract, lines 17-20, a protective cap can be produced by injection molding Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the Thibault et al. cap with a mineral filler as claimed, as taught by Thijs et al., and the cap being produced by injection molding, as taught by Deussen, in order to provide a smooth surface marked cap with suitable hardness .

In regard to claims 49 and 61, the hot-runner injection is performed on the central top of a cap is well known in the art.

Response to Arguments

10. Applicant's arguments with respect to claims 32-63 have been considered but are moot in view of the new ground(s) of rejection.

11. In regard to applicant's request to reconsider to withdrawn the objection to the drawing in a matter of the cross-section symbolic of material in the claimed invention because the application

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met the drawing requirement of the PCT. However, that is found not convincing because in the US patent application, drawings of the invention under rule 37 CFR 1.83(a) state that any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. Applicant should comply the rule of the drawing required in the patent application. Therefore, the drawing must show the cross section symbolic of thermoplastic elastomer material as set forth in the specification and in claims 32, 33, 47, 50, 51, 57 and 60.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hepp et al. and Siiss et al. teach method of producing plastic molds with a hot runner injections.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

a shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

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1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

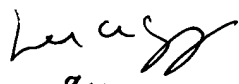
If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.



Lien Ngo

September 14, 2003


9/17/03
LEEYOUNG
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